

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2565 OF 2017

The State of Maharashtra and others .. Petitioners

Versus

Marathwada Raste Imarathi Va Pat-
bandhare Kamar Union Through its
General Secretary B. K. Panchal .. Respondent

Shri R. K. Ashtekar, Special Counsel for the Petitioner.
Shri A. S. Shelke, Advocate for the Respondent.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.
DATE : 27TH FEBRUARY, 2017.**

PER COURT :

. Mr. Ashtekar, the learned counsel for petitioners states that, the representation filed by the respondent was pending with the higher authorities. However, even without waiting for six months for the decision to be taken by the higher authorities, the respondent/union approached the Tribunal. The learned counsel submits that, the members of the respondent union had executed a bond to the effect that, they would not claim any benefit for working on second and fourth Saturday. According to the learned counsel the Tribunal failed to consider the said aspect. The learned counsel further submits that, when the

members of the respondent union have executed the bond, the members of the respondent union cannot travel beyond the same.

2. Mr. Shelke, the learned counsel for the respondent relies on the judgment of the learned Single Judge of this Court in a case of Superintending Engineer P. W. D. and others Vs. Kokan Sarvajanic Bandhkam Va Patbandhare Kambar Sangh reported in *2003(1) Mh.L.J. 86* to contend that the issue involved is covered by the said judgment. The learned counsel submits that, even recovery could not have been claimed by the petitioners. The members of the respondent union are Class IV employees.

3. It has been held by this Court that, the authorities cannot unilaterally change the terms of Kalelkar Award. The same is bi-lateral settlement and the authorities would be bound by the Kalelkar Award. This Court in a case of Superintending Engineer P. W. D. and others Vs. Kokan Sarvajanic Bandhkam Va Patbandhare Kambar Sangh referred to supra has dealt with the said issue and held that, the State cannot unilaterally change the conditions. The directions given by the Tribunal are in consonance with the Kalelkar Award. The members of the respondent union are the Class IV employees and the payment has been made to them long back. Even as per the judgment of the Apex Court in a case of State of Punjab and

others Vs. Rafiq Masih reported in **AIR 2015 SC 696**, recovery in such cases is barred. The recovery was being claimed in respect of work that was done by the members of respondent union.

4. Considering the above, no case for interference is made out. The writ petition as such is dismissed. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 17